

Introduced by Senator Battin

February 18, 2003

An act to amend Section 11105.2 of the Penal Code, relating to criminal history information.

LEGISLATIVE COUNSEL'S DIGEST

SB 275, as introduced, Battin. Criminal history information: school employees.

Existing law requires the Department of Justice to furnish various agencies and entities with a person's state summary criminal history information when that information is used for employment, licensing, or certification purposes. Under existing law, public and private school employers must run criminal history checks on uncredentialed and other specified employees through the department, as must the organization that credentials teachers with respect to credentialed persons. Existing law further requires public and private schools, and the teacher credentialing organization to request subsequent arrest information on those credentialed persons and other school employees from the department.

This bill would require the department to disclose whether a school or federal credentialing authority has a pending subsequent arrest notification request concerning an employee of the school in response to a request from a parent or guardian of a child at that school. The bill would also require the department to explain to the parent or guardian that the criminal background information of an employee who has arrest notification service pending has been sent to the applicable school or teacher credentialing authority. This bill would forbid the department from disclosing any other matter pertaining to the criminal history of the employee to the parent or guardian. It would also require the



department to adopt an appropriate procedure for receiving and responding to these requests, and authorize the department to charge a reasonable fee not to exceed its costs for providing the service.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11105.2 of the Penal Code is amended
2 to read:

3 11105.2. (a) The Department of Justice may provide
4 subsequent arrest notification to any agency authorized by Section
5 11105 to receive state summary criminal history information to
6 assist in fulfilling employment, licensing, certification duties, or
7 the duties of approving relative caregivers and nonrelative
8 extended family members, upon the arrest of any person whose
9 fingerprints are maintained on file at the Department of Justice as
10 the result of an application for licensing, employment,
11 certification, or approval. The notification shall consist of a
12 current copy of the person's state summary criminal history
13 transcript.

14 (b) For purposes of this section, "approval" means those duties
15 described in subdivision (d) of Section 309 of the Welfare and
16 Institutions Code for approving the home of a relative caregiver or
17 of a nonrelative extended family member for placement of a child
18 supervised by the juvenile court.

19 (c) Any agency, other than a law enforcement agency
20 employing peace officers as defined in Section 830.1, subdivisions
21 (a) and (e) of Section 830.2, subdivision (a) of Section 830.3,
22 subdivisions (a) and (b) of Section 830.5, and subdivision (a) of
23 Section 830.31, shall enter into a contract with the Department of
24 Justice in order to receive notification of subsequent arrests for
25 licensing, employment, or certification purposes.

26 (d) Any agency which submits the fingerprints of applicants for
27 licensing, employment, certification, or approval to the
28 Department of Justice for the purpose of establishing a record of
29 the applicant to receive notification of subsequent arrests shall
30 immediately notify the department when the employment of the
31 applicant is terminated, when the applicant's license or certificate
32 is revoked, when the applicant may no longer renew or reinstate



1 the license or certificate, or when a relative caregiver's or
2 nonrelative extended family member's approval is terminated.
3 The Department of Justice shall terminate subsequent arrest
4 notification on any applicant upon the request of the licensing,
5 employment, certifying, or approving authority.

6 (e) Any agency receiving a notification of subsequent arrest for
7 a person unknown to the agency, or for a person no longer
8 employed by the agency, or no longer eligible to renew the
9 certificate or license for which subsequent arrest notification
10 service was established shall immediately return the subsequent
11 arrest notification to the Department of Justice, informing the
12 department that the agency is no longer interested in the applicant.
13 The agency shall not record or otherwise retain any information
14 received as a result of the subsequent arrest notice.

15 (f) Any agency which submits the fingerprints of an applicant
16 for employment, licensing, certification, or approval to the
17 Department of Justice for the purpose of establishing a record at
18 the department to receive notification of subsequent arrest shall
19 immediately notify the department if the applicant is not
20 subsequently employed, or if the applicant is denied licensing
21 certification, or approval.

22 (g) An agency which fails to provide the Department of Justice
23 with notification as set forth in subdivisions (c), (d), and (e) may
24 be denied further subsequent arrest notification service.

25 (h) Notwithstanding subdivisions (c), (d), and (f), subsequent
26 arrest notification by the Department of Justice and retention by
27 the employing agency shall continue as to retired peace officers
28 listed in subdivision (c) of Section 830.5.

29 (i) *Upon the request of a parent or guardian of a child showing*
30 *that the child is attending a public or private school in California,*
31 *the Department of Justice shall disclose whether the school or*
32 *teacher credentialing authority has a pending request for*
33 *subsequent arrest notification concerning any employee of that*
34 *school, including any person credentialed by that authority,*
35 *specified in the request. The Department shall also inform the*
36 *parent or guardian that a pending subsequent arrest notification*
37 *service means that the school or teacher credentialing authority*
38 *has sought all required criminal information and is continuing to*
39 *receive any of that type of information that may be forthcoming*
40 *concerning that employee. The Department shall not disclose any*

1 *other matter pertaining to the criminal history of the employee to*
2 *that parent or guardian. The Department shall adopt an*
3 *appropriate procedure for receiving and responding to these*
4 *requests, and may charge a reasonable fee not to exceed its costs*
5 *for providing this information.*

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